GLEANERS' DOLL SALE ON FRIDAY

On the afternoon of Friday, December 2nd, the Gleaners will hold a Doll Sale. A large tent will be raised on the lawn Waikiki of Central Union Church in which nearly one hundred dolls will be glad to receive their friends from 3 p. m. until 9 p. m. The display will be well worth seeing for it is probable that this is the finest collection of dolls ever seen in the city. All the dolls were carefully selected from wholesale stores on the mainland by Miss Margaret Hopper.

"The doll dressmakers" have furnished each doll with a wardrobe made of materials which can be laundered, wardrobes which button and unbutton at the pleasure of the little doll-mothers. Mrs. Willard Brown and her assistants will serve pure, home made candies, Miss Alice Jones has charge of the decorations and the lemonade well will be under the direction of Mrs. Charles Atherton. There will be absolutely no admission fee and the collection will be well worth the seeing even by those who do not intend to buy. It will be well for those who wish to see the collection to come early as the dolls will go fast.

ONE MORE DAY PASSES

Fisher's Testimony Held Good By Court.

Parker Case Butts Into Trial of Stephen Mahaulu.

Mandamus to Judge De Bolt. Hana Suit Cross Bill. Notes.

Stephen Mahaulu's trial for embezzlement of public moneys has dragged through another day. After Judge Gear delivered his ruling on the Governor's refusal to appear as a witness elsewhere reported, Deputy Attorney General Prosser moved that the jury be instructed to disregard the statements just made by the court.

Judge Gear said the motion was quite proper and accordingly instructed the jury that nothing contained in the ruling of the court should be regarded by them as evidence.

Mr. Prosser was about addressing the court on the subject of certain Land Office schedules, the admissibility of which was under contest when the trial was adjourned on Friday. The court cut him short with a ruling that the schedules would be admitted.

J. H. Fisher, Auditor of the Territory, then resumed the witness stand. His examination on the Land Office records was concluded. On cross-examination he admitted that upon his appointment to office he had placed his resignation in the Governor's hands, and then on redirect examination testified that he did not know whether or not his resignation had been accepted.

Mr. Thompson for the defendant then moved that the testimony of Mr. Fisher be stricken out on the ground that he was not the Auditor of the Territory because he had given his resignation to the Governor.

Judge Gear took until after recess to rule on the motion. When the court resumed at 2 o'clock he denied the motion. After some remarks based on the Organic Act to the effect that the taking of undated resignations from officials by the Governor was illegal, adding that if the appointment and resignation were both valid the official might withdraw his resignation at any time, the court thus decided:

"There being no doubt that Mr. Fisher has been and is now acting as a de facto officer of a de jure office his testimony should not be stricken out, even if he does not hold the office under a full and legal appointment. The motion to strike out on the ground stated will therefore be denied."

Auditor Fisher was then again called to the stand, this time to be examined on the books of the Treasury with relation to the case.

Mr. Prosser expects to conclude the case for the prosecution today.

PARKER CASE INNINGS.

There was an irruption of attorneys in the Parker guardianship matter yesterday morning, the Mahaulu trial being sidetracked for a few minutes until the court should find what it was all about.

Mr. Magoon, attorney for petitioner Low, wanted to have the testimony of J. T. McCrosson taken before he left for the mainland on Wednesday.

Mr. Kinney, of counsel for the guardian, raised a laugh by saying, "We do not wish to press those contempt proceedings against the court," the allusion being to the suspension of the case pending the appeal to the Federal Supreme Court on the question of jurisdiction.

Judge Gear said he had received no restraining order from the Supreme Court. It was quite proper to have Mr. McCrosson's testimony taken, but the court would not hear the whole matter at that time owing to the Mahaulu trial.

The taking of Mr. McCrosson's testimony was set for 4 o'clock, when it proceeded with all parties to the litigation represented.

ARRAIGNMENTS.

A. McDuffie's pleas, under indictments for receiving bribes as a police officer, were further continued yesterday until tomorrow.

William Hoopii pleaded not guilty to burglary.

Kuramatsu pleaded not guilty to manslaughter.

MANDAMUS TO DE BOLT.

A writ of mandamus to Judge J. T. De Bolt has been ordered to issue by Chief Justice W. F. Frear, on the petition of John D. Spreckels and Adolph B. Spreckels, partners under the name of John D. Spreckels Brothers. The writ is made returnable before the Supreme Court on Monday, Dec. 5, at 10 a. m., and commands Judge De Bolt to proceed with the hearing of the cause of Charles A. Brown vs. John D. Spreckels and others or show cause to the contrary.

There is a history of the cause given in the petition. It is an action in ejectment which was filed in the Fourth Circuit Court in December, 1899, and came on for hearing before Judge Little, who after one mistrial ordered a nonsuit to be entered. This order was reversed by the Supreme Court and a new trial ordered. Thereafter the present petitioners moved for a change of venue, which was contested by the plaintiff but without raising the point of Judge Little's disqualification, and Judge Little ordered a change of venue to the Third Circuit Court, to which no exception was taken by the plaintift.

A trial in the Third Circuit Court resulted in a disagreement of the jury, whereupon the parties stipulated that the cause might be transferred to the First Circuit Court. Judge Edings ordered the cause so transferred.

The cause was tried in the First Circuit Court before Judge Gear, when a disagreement of the jury resulted. At the present term the cause was assigned to Judge De Bolt and, at its calling, counsel for plaintiff for the first time raised the question of the disqualification of Judge Little to make the order changing the venue. Judge De Bolt thereupon refused and still refuses to proceed with the trial or to set it for hearing, for the reason that Judge Little was disqualified, by reason of having given a judgment of nonsuit, from subsequently making an order of change of venue.

The petitioners contend that the reason of Judge De Bolt is insufficient in law, therefore pray for the writ of mandamus. The lawsuit relates to lands on the Hilo waterfront.

GUARDIANSHIP CONTEST.

Judge De Bolt yesterday further heard the petition of Rebecca Kanahele for the removal of E. P. Kalama and the appointment of herself as guardian of two minor girls. Resuming today the court will visit the house of a native woman, a witness in the case, to take her testimony there owing to her inability to attend court.

The jurors in Judge De Bolt's court are required to be in attendance on Thursday.

CASE OF THE MILLS.

By unanimous decision of the Supreme Court, written by Justice Hartwell, the exceptions of defendant to the verdict are sustained in the case of Pacific Mill Co., Ltd., vs. Enterprise Mill Co., Ltd. The verdict is set aside, the judgment thereon vacated and the case remanded to the First Circuit Court for a new trial. Robertson & Wilder for plaintiff. Ballou & Marx for defendant.

The action was a case for damages of $2079.27 for unlawfully taking possession and converting to his own use by the defendant of certain goods and chattels belonging to the plaintiff. A jury on March 18 last rendered the verdict now set aside, awarding the plaintiff $800 with interest at 6 per cent per annum.

Emmett May, now absent from the Territory, is heard of the Pacific, and Peter High of the Enterprise company.

HANA PLANTATION CASE.

In the suit of Sigmund Greenebaum and Charles Altschul, trustees, vs. Hana Plantation Co. and others the Union Trust Co. of San Francisco, one of the defendants, has filed an answer and cross bill. It denies that the first mortgage of Hana Plantation Co. to the plaintiffs covers, includes, or is a lien upon the sugar mill, railway, rolling stock and any personal property acquired after the mortgage was given, also denies that it is a lien on the crops of sugar cane now growing on the lands mentioned in the complaint of plaintiffs. For itself the Union Trust Co. complains against the plaintiffs and Hana Plantation Co., setting up the facts of its second mortgage on the property to secure payment of its mortgage bonds of $100,000 held by this complainant, with interest from January 1, 1904. The prayers of the cross bill are for adjudication of the Union Trust Co.'s lien, for an accounting, for the appointment of a receiver, for a sale of all of Hana Plantation Co.'s property, for application of the proceeds to satisfy this complainant's claim and to pay its reasonable counsel fees, costs, etc., and for such other and further relief as to the court may seem proper.

COURT NOTES.

Mrs. Noblitt was appointed by Judge De Bolt as administratrix of the estate of her late husband, Dr. William S. Noblitt, under a bond of $3000. C. A. K. Hopkins, J. A. Thompson and P. H. Burnette were appointed as appraisers of the estate.

Julio P. Rego petitions that J. J. Rodrigues be appointed guardian of his minor brothers, Jose P. and Manuel do Rego, who have certain property interests to be guarded.

Kealoha M. Kealiihooluhi has brought a divorce suit against Kealiihooluhi on the grounds of intemperance and failure to support her.

Fusa Hirota is suing for divorce from Bunzuchi Hirota on the grounds of extreme cruelty and non-support.

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GEAR TAKES BACK WATER

(Continued from page 1.)

swer to a question that the Attorney General was present on account of a letter he had received from the Governor—the letter which Governor Carter gave out for publication in the Advertiser—proceeded to deliver his ruling on the Governor's refusal to honor the subpoena, which he said he had reduced to writing so that all things might be clearly shown.

In the course of the deliverance it was argued at length that a defendant was entitled to have any person subpoenaed on his behalf, quoting from the Federal decision in the Aaron Burr case to show that even the President of the United States is not exempt from the process.

Reference was made to the Governor's admission that the court was of a co-ordinate department of the Territory, and the court represented that it was its department and not the executive's which had the construing of the laws. The local laws with regard to subpoenas were quoted, showing that here the process is issued in blank, that a clerk may insert the name of a witness and that the subpoena is obligatory upon the parties served therewith. On this the court says and concludes:

"Never before in this Territory, so far as the court knows, has any Governor of this Territory refused to comply with a subpoena and this question has not therefore arisen here. He certainly is not excepted by the terms of the statute which makes a subpoena obligatory upon the parties actually served. No martial law has been declared, as was the case in Pennsylvania, and the court is unable to find a substantial reason for the Governor's refusal to become a witness in this case.

"As to the materiality of the evidence sought to be obtained, that question is one for the court to pass upon. However, understanding clearly as I do that the chief executive has refused to obey the subpoena I am yet averse to having him brought into court to show cause why he should not be committed for contempt and will therefore order that the citation do not issue. In so doing I do not overlook the right of the defendant to have produced all material evidence for his defence. When the proper time comes I shall rule on the materiality of the testimony which it is alleged the Governor would give. Should it be held by the court that such testimony is not material the matter will end there. On the other hand, should the court hold that the testimony is material the prosecution will be compelled to admit as set forth in the motion that such facts are true, or, upon the refusal of the prosecution so to admit, the jury will be instructed to return a verdict of not guilty for a refusal to have afforded to the defendant his constitutional rights."